

AMENDED IN ASSEMBLY APRIL 9, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 3044

Introduced by Assembly Member Olberg

February 23, 1996

An act to add Division 37.5 (commencing with Section 57050) to the Health and Safety Code, relating to environmental protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 3044, as amended, Olberg. Interagency Natural Resources Coordination Committee.

Under existing law, the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, the administrator for oil spill response exercises authority pertaining to prevention of, and response to, oil spills in marine waters and contingency planning.

Various environmental protection laws regulate the condition of facilities and structures to prevent damage to the environment.

This bill would create the Interagency Natural Resources Coordination Committee consisting of specified public officials. The bill would authorize any responsible party, as defined, to request the committee to designate an administering agency, as defined, to ~~approve, oversee and supervise implementation of a repair and maintenance project as defined, or, in connection with an oil spill, as defined, to supervise, or oversee a damage assessment or~~

~~remedial and coordinate any site investigation or restoration action plan in connection with an oil spill, and the implementation of a repair and maintenance project, as defined, that is necessary to prevent a potential threat of damage to the environment. In the case of an oil spill, the administering agency would be the administrator for oil spill response.~~

The bill would specify related matters and make related legislative findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Division 37.5 (commencing with*
2 *Section 57050) is added to the Health and Safety Code, to*
3 *read:*

4

5 *DIVISION 37.5. INTERAGENCY NATURAL*
6 *RESOURCES COORDINATION COMMITTEE*

7

8 *57050. The Legislature hereby finds and declares all*
9 *of the following:*

10 (a) The failure to properly repair and maintain
11 commercial and industrial facilities or structures poses a
12 threat to the environment that can be prevented through
13 expeditious and coordinated agency action.

14 (b) The impact of oil spills on natural resources are also
15 minimized through expeditious and coordinated agency
16 action.

17 (c) An immediate and integrated initial response to oil
18 spills is provided in Chapter 7.4 (commencing with
19 Section 8670.1) of Division 1 of Title 2 of the Government
20 Code to prevent, abate, contain, and clean up an oil spill
21 in the marine waters of the state.

22 (d) The assessment of damage to natural resources
23 from an oil spill must also be performed as expeditiously
24 as possible so that ~~remedial~~-restoration actions that are
25 necessary to restore, rehabilitate, replace, or otherwise



1 provide mitigation for natural resources damaged by the
2 oil spill may be quickly taken.

3 (e) There is an urgent need to implement repair and
4 maintenance projects, as defined in subdivision (d) of
5 ~~Section 2 of this act~~ *subdivision (e) of Section 57051*, and
6 to implement ~~remedial action~~ *restoration* plans for oil
7 spills as quickly and as effectively as possible to avoid
8 potential damage to natural resources.

9 (f) It is the intent of this act to provide a mechanism
10 by which an administering agency, as defined in
11 subdivision (a) of ~~Section 2 of this act~~ *Section 57051*, and
12 designated pursuant to ~~Sections 4 and 5 of this act~~ *Section*
13 *57053 or 57054*, may further those objectives by
14 coordinating and supervising repair and maintenance
15 projects and the assessment of ~~damages~~ *injury to natural*
16 *resources* and the taking of ~~remedial~~ *restoration* actions
17 in connection with oil spills.

18 ~~SEC. 2. For purposes of this act~~
19 *57051. For purposes of this division*, the following
20 terms shall have the following meaning:

21 (a) ~~“Administering agency” means any state or local~~
22 ~~agency that has jurisdiction under state or local law to~~
23 ~~approve, supervise, or oversee a repair and maintenance~~
24 ~~project, as defined in subdivision (d), or a damage~~
25 ~~assessment or remedial action plan in connection with an~~
26 ~~oil spill.~~

27 (b) ~~“Committee” means the Interagency Natural~~
28 ~~Resources Coordination Committee created in Section 3~~
29 ~~of this act.~~

30 (c) ~~“Remedial action” means actions required by~~
31 ~~federal, state, or local law, including actions required by~~
32 ~~state trustees under Section 1006 of the Oil Pollution Act~~
33 ~~of 1990 (33 U.S.C.A. Sec. 2706), that are necessary to~~
34 ~~restore, rehabilitate, replace, or provide mitigation for~~
35 ~~damage to natural resources, such as wildlife and~~
36 ~~fisheries, and to the habitat of fish and other wildlife,~~
37 ~~including beaches and other sensitive coastal areas,~~
38 ~~caused by the spill of oil into marine waters.~~

39 (d) ~~“Repair and maintenance project” means a~~
40 ~~project to repair or maintain an existing commercial or~~

~~1 industrial facility or structure that is in violation of laws
2 enacted or adopted for protection of the environment
3 and where the failure to repair or maintain the facility or
4 structure to correct the violation results in the facility or
5 structure posing a substantial threat of damage to the
6 environment.~~

~~7 (e) “Responsible party,” in connection with oil spills,
8 has the same meaning as defined in subdivision (q) of
9 Section 8670.3 of the Government Code, and, in
10 connection with a repair and maintenance project,
11 means any owner or lessee or operator of a facility or
12 structure proposed to be repaired or maintained.~~

~~13 (f) “Oil spill” has the same meaning as “spill,” as
14 defined in subdivision (u) of Section 8670.3 of the
15 Government Code.~~

~~16 SEC. 3.—~~

~~17 (a) “Administering agency” means the public agency
18 designated pursuant to Section 57053 or 57054.~~

~~19 (b) “Committee” means the Interagency Natural
20 Resources Coordination Committee created pursuant to
21 Section 57052.~~

~~22 (c) “Oil spill” has the same meaning as “spill” is
23 defined in subdivision (u) of Section 8670.3 of the
24 Government Code or as “discharge” is defined in Section
25 1001(7) of the federal Oil Pollution Act of 1990 (33
26 U.S.C.A. Sec. 2701(7)).~~

~~27 (d) “Public agency” means any state or local agency
28 that has jurisdiction under state or local law to approve,
29 supervise, or oversee a repair and maintenance project,
30 as defined in subdivision (e), or a site investigation, as
31 defined in subdivision (h), or a restoration action, as
32 defined in subdivision (g).~~

~~33 (e) “Repair and maintenance project” means a
34 project to repair or maintain an existing commercial or
35 industrial facility or structure when the failure to repair
36 or maintain that facility or structure would potentially
37 cause a violation of any law or regulation intended for the
38 protection of human health or safety, or the environment.~~

~~39 (f) “Responsible party” means the following:~~

1 (1) *In connection with oil spills, either a “responsible*
2 *party,” as defined in subdivision (q) of Section 8670.3 of*
3 *the Government Code, or a “responsible party,” as*
4 *defined in Section 1001(32) of the Oil Pollution Act of*
5 *1990 (33 U.S.C.A. Sec. 2701(32)).*

6 (2) *In connection with a repair and maintenance*
7 *project, any owner or lessee or operator of the facility or*
8 *structure proposed to be repaired or maintained.*

9 (g) *“Restoration action” means an action in*
10 *connection with an oil spill that is required by federal,*
11 *state, or local law, including actions required by state*
12 *trustees under Section 1006 of the Oil Pollution Act of*
13 *1990 (33 U.S.C.A. Sec. 2706), that are necessary to restore,*
14 *rehabilitate, replace, or provide mitigation for damage to*
15 *natural resources, such as wildlife and fisheries, or to the*
16 *habitat of fish and other wildlife, including beaches and*
17 *other sensitive coastal areas, caused by an oil spill.*
18 *“Restoration action” includes the preparation and*
19 *implementation of a plan for a restoration action.*

20 (h) *“Site investigation” means those actions in*
21 *connection with an oil spill that are necessary to assess*
22 *injury to natural resources, collect data, or otherwise*
23 *evaluate the oil spill for the purpose of planning or*
24 *implementing a restoration action. “Site investigation”*
25 *includes the assessment of damages necessary to prepare*
26 *and implement a plan for a restoration action.*

27 57052. (a) The Interagency Natural Resources
28 Coordination Committee is hereby created in the state
29 government and shall consist of the following members:

30 (1) The administrator for oil spill response, as defined
31 in subdivision (a) of Section 8670.3 of the Government
32 Code.

33 (2) The Secretary for Environmental Protection.

34 (3) The Secretary of the Resources Agency.

35 (4) The Executive Director of the California Coastal
36 Commission.

37 (5) The Executive Director of the State Lands
38 Commission.

39 (6) The Chair of the State Water Resources Control
40 Board.

1 (7) The State Fire Marshal.

2 (8) “State trustees” designated by the Governor
3 pursuant to Section 1006 of the Oil Pollution Act of 1990
4 (33 U.S.C.A. Sec. 2706).

5 (b) (1) The Governor shall choose a chairperson from
6 among the members of the committee. A committee
7 member may designate an employee of the member’s
8 agency to participate in committee meetings in the
9 member’s place.

10 (2) The decisions of the committee shall be subject to
11 the concurrence of ~~four members, except as provided in~~
12 ~~paragraph (2) of subdivision (e).~~

13 ~~(c) (1) In the event of an oil spill, at the request of a~~
14 ~~responsible party, the chairperson of the committee shall~~
15 ~~select, for temporary membership on the committee, for~~
16 ~~purposes of assisting the committee in exercising its~~
17 ~~responsibilities with regard to the oil spill, an official of the~~
18 ~~affected local agency who possesses expertise and~~
19 ~~experience with the type and extent of the oil spill,~~
20 ~~subject to approval of the legislative body of the local~~
21 ~~agency.~~

22 ~~(2) If a local agency representative participates as a~~
23 ~~member of the committee pursuant to paragraph (1), the~~
24 ~~decisions of the committee with regard to the oil spill shall~~
25 ~~be subject to the concurrence of five members.~~

26 ~~SEC. 4.— the majority of its members.~~

27 ~~(c) At the request of a responsible party, the~~
28 ~~chairperson of the committee shall select, for temporary~~
29 ~~membership on the committee, for purposes of assisting~~
30 ~~the committee in exercising its responsibilities, an official~~
31 ~~of the affected local agency, subject to approval of the~~
32 ~~legislative body of the local agency, who possesses~~
33 ~~expertise and experience, in the case of an oil spill, with~~
34 ~~the type and extent of the oil spill, or, in the case of a~~
35 ~~repair and maintenance project, with such a repair and~~
36 ~~maintenance project.~~

37 ~~(d) (1) The committee may, at any time, convene an~~
38 ~~advisory team for the purpose of providing the~~
39 ~~administering agency with guidance in overseeing a site~~
40 ~~investigation and restoration action in connection with an~~

1 oil spill or with guidance in overseeing and supervising
2 implementation of a repair and maintenance project
3 pursuant to Section 57053.

4 (2) The chairperson of the advisory team shall be
5 appointed by the administering agency and shall call a
6 meeting of the advisory team within five working days
7 from the date that the administering agency sets a
8 meeting. A representative of the administering agency
9 shall attend all advisory team meetings.

10 57053. (a) Any responsible party may request the
11 committee to designate an administering agency to
12 oversee and supervise implementation of a repair and
13 maintenance project. The committee shall designate an
14 administering agency within 45 days from the date that
15 the request was received.

16 (b) The responsible party shall provide the committee
17 with a brief description of the repair and maintenance
18 project, a description of the potential environmental
19 damage that may result from a failure to carry out the
20 repair and maintenance project in a timely manner, and
21 identification of which agency the responsible party
22 believes should be designated the administering agency
23 for the repair and maintenance project.

24 (c) The committee shall take the following factors into
25 account in determining which agency to designate as the
26 administering agency for the repair and maintenance
27 project:

28 (1) The type of facility or structure that is the subject
29 of the proposed repair and maintenance project.

30 (2) The nature of the threat that a failure to repair and
31 maintain the structure or facility poses to the
32 environment, including the environmental medium that
33 may be affected by a failure to repair and maintain the
34 structure or facility.

35 (3) The environmental and human health and safety
36 concerns that should be considered in properly carrying
37 out the repair and maintenance project.

38 (4) The statutory and regulatory standards applicable
39 to the repair and maintenance project.

40 ~~SEC. 5.—~~

1 57054. (a) If a responsible party requests the
2 committee to designate an administering agency in
3 connection with an oil spill, the administering agency
4 shall be the administrator for oil spill response.

5 (b) (1) The administrator for oil spill response, as the
6 administering agency, shall supervise and coordinate all
7 state and local agency programs relating to the
8 ~~restoration, rehabilitation, replacement, or mitigation for~~
9 ~~natural resources damaged by the oil spill.~~

10 ~~(2) For purposes of this subdivision, state programs~~
11 ~~include those duties of agencies designated state trustees~~
12 ~~under Section 1006 of the Oil Pollution Act of 1990 (33~~
13 ~~U.S.C.A. Sec. 2706), pertaining to assessment of damage~~
14 ~~to natural resources, and to the development and~~
15 ~~implementation of a plan for the restoration,~~
16 ~~rehabilitation, or replacement, or acquisition of the~~
17 ~~equivalent, of the natural resources under their~~
18 ~~trusteeship. any site investigation or restoration action in~~
19 ~~connection with an oil spill.~~

20 *(2) For purposes of this subdivision, state programs*
21 *include, but are not limited to, those duties of agencies*
22 *designated state trustees under Section 1006(c) of the Oil*
23 *Pollution Act of 1990 (33 U.S.C.A. Sec. 2706(c)).*

24 57055. The administering agency shall have sole
25 jurisdiction over the approval of a repair and
26 maintenance project, and all aspects of a site investigation
27 and restoration action in connection with an oil spill, as
28 the case may be. For purposes of this division, the
29 administering agency shall do all of the following:

30 (a) Administer all federal, state, and local laws that are
31 applicable to, and govern, the activities involved in a
32 repair and maintenance project or in a site investigation
33 and restoration action.

34 (b) Issue permits or other forms of authorization that
35 may be required by state or local laws and that are
36 necessary to undertake the repair and maintenance
37 project or activities related to the site investigation and
38 restoration action. Before issuing a permit or other
39 authorization pursuant to this subdivision, the
40 administering agency shall consult with the appropriate

1 public agency and ensure that required procedures are
2 followed and adequate permit requirements and
3 conditions are imposed.

4 (c) Determine the adequacy of site investigation and
5 restoration action activities in connection with an oil spill
6 and the extent to which those activities comply with
7 applicable state and local laws. In making that
8 determination, the administering agency shall consult
9 with the advisory team, if convened pursuant to
10 subdivision (d) of Section 57052.

11 57056. (a) Any public agency may petition the
12 chairperson of the committee at any time to review the
13 manner in which the administering agency is
14 implementing state and local laws applicable to a repair
15 and maintenance project or to a site investigation and
16 restoration action that is being carried out by the
17 responsible party.

18 (b) The petition specified in subdivision (a) shall state
19 the reasons why the review is warranted, or the basis for
20 believing that applicable state and local laws are not
21 being properly implemented.

22 (c) The committee shall review the petition submitted
23 pursuant to subdivision (a), consult with the petitioning
24 and administering agencies, and make a decision
25 regarding the validity of the petition within 30 calendar
26 days from the date that the petition is received. If the
27 committee finds that the petition is not valid, it shall deny
28 the petition. If it finds that the administering agency is
29 not properly implementing a state or local law, the
30 administering agency shall be divested of exclusive
31 jurisdiction over the implementation of that law and the
32 jurisdiction shall revert to the appropriate public agency.

33 (d) Nothing in this section shall be construed to affect
34 or limit the jurisdiction of the administering agency in
35 connection with the administration of any state or local
36 law that has not been challenged under this section.

37 57057. The responsible party may, with the approval
38 of the administering agency, terminate the application of
39 this division to the repair and maintenance project or the
40 site investigation and restoration action. The

1 administering agency shall notify the committee, the
2 advisory team, if any, and the public agency that the
3 application of this division has been terminated. If the
4 application of this division is terminated, the responsible
5 party may not request the designation of another
6 administering agency pursuant to Section 57053 or 57054.
7 57058. If, at any time after the repair and
8 maintenance project or site investigation and restoration
9 action has begun, the administering agency determines
10 that the information concerning the site that was
11 available at the time that the administering agency was
12 designated was not accurate or was incomplete and that
13 new information would likely have resulted in the
14 designation of a different administering agency, the
15 administering agency may request the committee to
16 review the original designation. If, after reviewing the
17 new information and considering all pertinent factors,
18 the committee concludes that the original designation
19 was not in the public interests, the committee may
20 rescind the original designation and designate a different
21 administering agency.

